

REMARKS

In response to the Office Action mailed May 22, 2009, Applicant respectfully requests reconsideration. To further the prosecution of this application, each of the rejections set forth in the Office Action has been carefully considered and is addressed below. The claims as presented are believed to be in condition for allowance.

Claims 1-13, 15-20, 36 and 42-49 were previously pending in this application. No claims are amended, added or canceled. As a result, claims 1-13, 15-20, 36 and 42-49 remain pending for examination, with claims 1, 17 and 36 being independent. No new matter has been added.

Claim Rejections Under 35 U.S.C. §103

Claims 1-13, 15-20, 36 and 42-49 are rejected under 35 U.S.C. §103(a) as purportedly being obvious over U.S. Patent No. 6,442,714 to Griffin, et al. ("Griffin") in view of U.S. Patent No. 5,671,351 to Wild, et al. ("Wild") and further in view of U.S. Patent No. 7,451,392 to Chalecki, et al. ("Chalecki"). Applicant respectfully traverses this rejection.

35 U.S.C. §103(c) states that subject matter developed by another person which qualifies as prior art only under §102(e), (f), or (g), shall not preclude patentability under §103 where that subject matter and the claimed invention were, at the time the claimed invention was made, owned by the same person or subject to an obligation of Assignment to the same person. At the time the claimed invention was made, Chalecki was both owned by the same entity (i.e., the assignee) and subject to an obligation of assignment to the same entity as the present application. Chalecki qualifies as prior art to the present application only under 35 U.S.C. §102(e). As such, §103(c) provides that Chalecki may not preclude patentability of the claimed subject matter under §103.

Chalecki qualifies as prior art to the present application only under §102(e). The present application was filed on November 5, 2003. Chalecki was filed on November 26, 2003 and issued on November 11, 2008. Chalecki is a continuation-in-part of U.S. Patent Application Serial No. 10/610,504, now U.S. Patent No. 7,197,515 ("the '515 patent"), filed June 30, 2003. The '515 patent claims priority to five separate applications: U.S. Patent Application Serial No. 10/395,506,

filed March 24, 2003; U.S. Patent Application Serial No. 10/404,312, filed March 31, 2003; U.S. Patent Application Serial No. 10/402,640, filed March 28, 2003; U.S. Patent Application Serial No. 10/395,490, filed March 24, 2003; and U.S. Patent Application Serial No. 10/395,505, filed March 24, 2003.

Chalecki does not qualify as prior art to the present application under §102(a), as Chalecki was not patented or published in this or a foreign country before the invention of the claimed subject matter by Applicant.

Chalecki also does not qualify as prior art under §102(b), as Chalecki was not patented or published in this or a foreign country or in public use or on sale in this country more than one year prior to the filing date of the present application.

Section 102(c) does not apply to the present application, as it was not abandoned.

Section 102(d) also does not apply to the present application, as the present application was not first patented or caused to be patented, or the subject of an inventor's certificate, in a foreign country prior to the date of application for patent in this country on an application for patent or inventor's certificate filed more than twelve months prior to the filing date of the present application in the United States.

Chalecki qualifies as prior art only under §102(e). Specifically, Chalecki was described in a patent granted on an application by another filed in the United States before the invention of the claimed subject matter by the Applicant.

Because Chalecki qualifies as prior art only under §102(e), and Chalecki and the present application were both owned by and subject to an obligation of assignment to the same entity (i.e., the assignee) at the time the claimed invention was made, §103(c) provides that Chalecki may not preclude patentability of the claims on the present application under §103.

Accordingly, the rejection of claims 1-13, 15-20, 36 and 42-29 as purportedly being obvious over Griffin in view of Wild and Chalecki should be withdrawn.

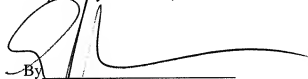
CONCLUSION

A Notice of Allowance is respectfully requested. The Examiner is requested to call the undersigned at the telephone number listed below if this communication does not place the case in condition for allowance.

If this response is not considered timely filed and if a request for an extension of time is otherwise absent, Applicant hereby requests any necessary extension of time. If there is a fee occasioned by this response, including an extension fee, the Director is hereby authorized to charge any deficiency or credit any overpayment in the fees filed, asserted to be filed or which should have been filed herewith to our Deposit Account No. 23/2825, under Docket No. M1103.70586US00.

Dated: 10-15-09

Respectfully submitted,

A handwritten signature in dark ink, appearing to be 'EJ Walsh', written over a horizontal line.

By
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